IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Crl.Misc.No.8058-M of 2007

DATE OF DECISION: MARCH 20, 2007

Sandeep Chadha alias Foru alias Mony

...PETITIONER

VERSUS

The State of Haryana

...RESPONDENT

CORAM: HON'BLE MR.JUSTICE SATISH KUMAR MITTAL

Present: Mr. R.S.Ghai,Sr. Advocate,
with Mr.Mandeep Kaushik, Advocate,
for the petitioner.
Mr.S.S.Mor, Sr.DAG,Haryana.

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Petitioner Sandeep Chadha alias Foru alias Mony has filed this petition under Section 439 Cr.P.C. for grant of regular bail in case FIR No. 363 dated 19.9.2006 registered under Sections 302/323/324/148/149 IPC at Police Station Sector 5, Panchkula.

I have heard the counsel for the parties and gone through the contents of the FIR as well as the order dated 25.1.2007, whereby bail has been declined to the petitioner.

In this case, on 19.9.2006 at 11.00 PM in night, a sudden fight took place between the accused side and the complainant side in front of liquor vend, when the accused tried to misbehave with two girls sitting in the car of the complainant side. As per the prosecution version, the accused were known to complainant Varun Sharma as well as deceased Varun Nath. In the FIR, it has been alleged that accused Dipi, who was holding a bottle in his hand, after breaking the bottle, gave a blow with the broken bottle in the stomach of Varun Nath and other accused Manni Puri also gave number of injuries on the chest of Varun Nath. Subsequently, Varun Nath died.

Counsel for the petitioner contends that as far as petitioner Sandeep Chadha alias Foru alias Mony is concerned, he has not been named in the aforesaid FIR, which was recorded on the same day on the statement

of Davinder Singh alias Raju. But subsequently, a supplementary statement of injured Varun Sharma was recorded in which he stated that the petitioner, who was known to him, was also present at the time of the alleged occurrence and he also caught hold the deceased when he was given injuries by other co-accused. Counsel contends that actually the petitioner was not present at the time of the alleged occurrence in which free fight took place between both sides and all the persons from the accused side as well as the other side got injured. But, there is no injury on the body of the petitioner. However, four other persons named in the FIR have received injuries. Counsel further contends that there was no previous enmity between the parties and the occurrence took place due to sudden fight between the parties. Counsel contends that there was no common intention between all the accused for committing the murder. Counsel further contends that as far as the petitioner is concerned, no injury was caused by him to the deceased. Counsel contends that in such situation, each accused has to be punished according to the role played by them and keeping in view the role attributed to the petitioner, he cannot be charged for the offence under Section 302 IPC. Counsel further contends that the petitioner is in custody since 8.10.2006 and trial is not going to conclude soon.

Counsel for the respondent-State does not dispute the factual position. However, he submits that in the supplementary statement, Varun Sharma has stated that the petitioner was also present at the time of the alleged occurrence and he also caught hold the deceased when the injuries were given by other accused. However, he has not denied that there was no previous enmity and it was a sudden fight and no injury was caused by the petitioner to the deceased.

After hearing the counsel for the parties and keeping in view the aforesaid facts, without expressing any opinion on the merits of the case, I deem it appropriate to grant regular bail to the petitioner, and he is accordingly ordered to be released on bail to the satisfaction of the trial Court.

March 20, 2007 (SATISH KUMAR MITTAL)
vkg JUDGE